

**BOARD OF TAX APPEALS
STATE OF LOUISIANA**

**WATSCO HOLDINGS, INC
PETITIONER**

VERSUS

DOCKET NO. 7846

**DEPARTMENT OF REVENUE,
STATE OF LOUISIANA
RESPONDENT**

JUDGMENT ON EXCEPTION

A hearing on the Exceptions of Prescription, Peremption, No Right of Action and Lack of Subject Matter Jurisdiction filed by the Secretary, Department of Revenue (Secretary) was held before the Board on November 5, 2015 with Judge Tony Graphia (Ret.), Chairman; Vice-Chairman Cade R. Cole and Board Member Kernan A. Hand present. Participating in the hearing was: Efy Distefano, by phone, for Watsco Holdings, Inc. ("Taxpayer") and Miranda Scroggins, attorney for the Secretary. After the hearing, the matter was taken under advisement.

Taxpayer appealed the Secretary's denial of a refund of corporation franchise taxes in the amount of \$20,157.00. The Secretary's notice to the Taxpayer denying the refund was mailed to Taxpayer by certified mail on December 7, 2012. The Taxpayer's petition was received by and filed with the Board on February 7, 2013, 62 days after the date of the mailing of the Secretary's notice of denial.

R.S. 47:1625 dealing with appeals to the Board from the Secretary's disallowance of a refund claim, provides in pertinent part:

"1625. Appeals from the collector's disallowance of refund claims

If the collector...denies the claim in whole or in part, the taxpayer claiming such refund...may appeal to the board of tax appeals for a hearing on the claim filed. **No appeal may be filed...after the expiration of sixty days from the date of mailing...**by the collector to the taxpayer of the disallowance...of the claim..." (emphasis supplied).

As stated above, the Taxpayer's petition was not filed with the Board until 62 days after the date of mailing of the Secretary's notice of disallowance which was outside the 60 days allowed by the foregoing statute.

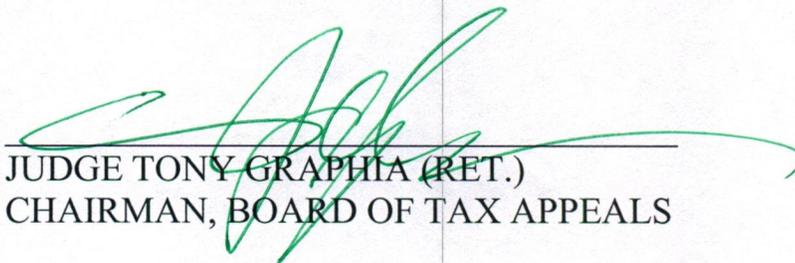
The Board promulgated a 'mailbox rule' on June 20, 2015 to allow the date of filing to be the date that a taxpayer's petition was mailed. LAC 69:303. But that rule was not in effect on February 7, 2013 when the Taxpayer filed its petition with the Board. The rule was not retroactive. As provided by R.S. 47:1625, the petition to the Board must be filed within the sixty days allowed by the statute. That period lapsed in 2013 when the taxpayer failed to timely file its petition with the Board.

For the reasons stated herein, the law and evidence being in favor thereof:

IT IS ORDERED, ADJUDGED, AND DECREED that the Secretary's exception of prescription is sustained, and THAT the Taxpayer's petition BE AND IS HEREBY dismissed.

Baton Rouge, Louisiana this 14th day of January, 2016

BY THE BOARD:



JUDGE TONY GRAPHIA (RET.)
CHAIRMAN, BOARD OF TAX APPEALS